REMARKS

This responds to the Office Action mailed on October 30, 2008.

No claims are amended, claims 15-17 are canceled, and no claims are added; as a result, claims 1-7 remain pending in this application.

Drawing Objections

The Office Action summary page indicates that the drawings filed on December 31, 2003 were objected to by the Examiner. However, Applicants filed formal drawings with the U.S. Patent Office on April 23, 2008, and it is therefore believed that the drawing objection is obviated. Further, the Office Action fails to provide any further information beyond the indication of objection on the summary page. Thus, it appears that the drawing objection was merely an oversight. If further issues are noted with the drawings, Applicant respectfully requests more detail regarding the objection.

§103 Rejection of the Claims

Claims 1, 7, 15, 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ackaouy et al. (U.S. 7,171,469) in view of Morse et al. (U.S. 6,609,004) and further in view of Yamamoto et al. (U.S. U.S. 6,467,026).

Applicant has canceled claims 15-17.

With regard to independent claim 1, the Office Action admits that Ackaouy fails to teach identifying the server as a function of a table holding content availability and location data of content held in memory of one or more other servers. Morse is provided to show this admitted deficiency. Applicant respectfully submits that a person of skill in the art, if aware of both Ackaouy and Morse, would not have combined these references to obtain the presently claimed invention as Morse teaches away from the asserted combination.

For example, a goal of the presently claimed invention is server performance enhancement which is evident merely by the title of the application, but also upon review of the application including the abstract. This is a similar goal of Ackaouy in storing data in a proxy cache in a network. In contrast to that goal, Morse includes a mobility aware content server that

identifies content based on a location of a wireless communication device and sends that content to the wireless communication system in response to movement. I suppose this may make content more readily available to the mobile communication device, but the result is additional overhead for the server to retrieve data that is not even requested and may not even be consumed/read/used. The result is data processing overhead on the server that provides the data to the mobile communication device. Thus, although Morse may include a table identifying where data may be stored, when combining Morse with Ackaouy, the entire teachings of the reference must be considered. When considered, the additional overhead of Morse teaches away from the combination with Ackaouy because of the added overhead of pushing data by the server which is contrary to the enhancement of server performance of the present claims and Ackaouy. Morse may therefore be considered to teach away from the present claims.

As a result of this teaching way, the combination of references asserted in the Office Action is left with Ackaouy and Yamamoto. This combination of references is deficient in providing a teaching or suggestion of identifying the server as a function of a table holding content availability and location data of content held in memory of one or more other servers as included in independent claim 1. Thus, Applicant respectfully submits that independent claim 1 is patentable over the asserted combination of Ackaouy, Morse, and Yamamoto.

Claim 7 depends from patentable independent claim 1 and is patentable for at least the same reasons. Applicant further respectfully submits that the combination of Ackaouy, Morse, and Yamamoto is also deficient in providing a teaching or suggestion of loading the unique content into memory prior to the server being available to service content requests. The Office Action asserts that caching frequently requested data set 140 in the proxy server 115 as in Ackaouy is an equivalent teaching. However, in Ackaouy at col. 4, lines 65-67 there is no mention of when the server is loaded. Review of earlier portions of this cited column reveals that the data is loaded into the proxy cache as it is requested and retrieved from remote locations. As a result it appears from the description of Ackaouy that Ackaouy does not meeting limitation of claim 7 of loading the unique content prior to the server being available as Ackaouy loads the data into the cache as the data is requested from the server.

AMENDMENT AND RESPONSE UNDER 37 C.F.R § 1.111
Serial Number:10/750,167
Filing Date: December 31, 2003
Title: DISTRIBUTED AND DYNAMIC CONTENT REPLICATION FOR SERVER CLUSTER ACCELERATION

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Claims 2-4 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Ackaouy et al., Morse et al. and Yamamoto et al.

Claims 5 and 6 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Ackaouy et al., Morse et al. and Yamamoto et al., and in view of Yeh et al. ("Introduction to TCP/IP Offload Engine (TOE), Version 1.0, 10GEA Alliance, April 2002").

Claims 2-6 are dependent, directly or indirectly, on patentable independent claim 1 and are also patentable for at least the same reasons.

Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of claims 1-7.
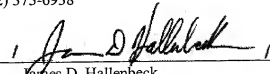

CONCLUSION

Applicant respectfully submits that claims 1-7 are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6938 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

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